IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY
And
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO: 820 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/12/2003 in W.P.M.P.No.324461 of 2003 in WP NO: 24869 OF 2003 on the file of the High Court.)

Between:

Sri Visakha Grameena bank, Head Office Srikakulam SC&ST Employees Welfare Association Regd.No.214-83, rep.by President K.Surya Prakash Rao, Branch Manager, Chowduwada Branch, K.Kotapadu Mandal,
Visakhapatnam District.

...
APPELLANT
(Petitioner)

AND

The Chairman, Head Office, Sri Visakha Grameena Bank Srikakulam, Srikakulam District.

...RESPONDENT
(Respondent)

For the Appellant: MR.J.SATYA PRASAD, Advocate

For the Sole RespondentMR.K.SRINIVASAMURTHY, Advocate

The Court Made the Following:

ORDER: (Per GB, J)

This Writ Appeal is directed against the order passed by

the learned single Judge in W.P.No.24869 of 2003 dated 16-12-2003.

2. The Writ Petition was filed by the Employees Welfare Association seeking a writ of mandamus declaring the circular Staff No.25/03 dated 13-11-2003 issued by the respondent-bank as illegal and unconstitutional to the extent of not providing rule of reservation to the Scheduled Castes and Scheduled Tribes and not specifying the number of posts available for said classes and consequently direct the respondent to provide four posts of M.M.G.S-II.

3. While admitting the Writ Petition, interim direction was granted by the learned single Judge to reserve four posts of M.M.G.S-II and not to fill up the posts pending further orders. Thereafter by an order dated 16-12-2003 in W.P.M.P.No.32446 of 2003, the said direction was vacated and the Writ Petition was posted for final hearing and challenging the said order, the present Writ Appeal has been filed.

4. The learned counsel for the appellant submits that the order passed by the learned single Judge vacating the directions is illegal and contrary to law and he submits that reservation has been provided in respect of promotion categories which is clear from the provisions contained in the Regional Rural Banks (appointment and promotions of officer & other employees) Rules 1998 and the communication issued by NABARD dated 23-11-2000. He also referred to the minutes of the meeting held between the Office bearers of the Union and the Chairman of the RRBs in Andhra Pradesh. Therefore, he submits that the learned single Judge ought not to have vacated the interim direction already granted.

5. On the other hand, learned counsel appearing for the bank vehemently submits that the Writ Appeal itself is not maintainable. She further submits that this matter is covered by the decision of Full Bench reported in **ANDHRA BANK S.T EMPLOYEES WELFARE ASSOCIATION V. ANDHRA BANK**[1] wherein the Full Bench has categorically stated that this Court under Article 226 of the Constitution of India cannot direct the bank to make reservation in the promotion and that is the prerogative of the bank in this regard. In so long as the bank has not issued any such reservation notification, the petitioners cannot have right to claim reservation in promotion.

6. We have heard the learned counsel for parties.

7. Learned counsel for the bank is not in a position to say whether any promotions were made consequent on the vacation of interim order passed by the learned single Judge.

8. The issue that arises for consideration is whether the order passed by the learned single Judge is sustainable in law. But, the larger issue is whether the petitioners' association is entitled for reservation in promotional categories, which is the subject matter before the learned single Judge. Inasmuch as no information is forthcoming as to whether any promotions have taken place, we find that the matter should be resolved at the earliest possible time so as to avoid further complications in the matter. Therefore, we feel it desirable that the Writ Petition itself has to be disposed of.

9. Accordingly, the Writ Appeal is disposed of directing the Writ Petition to be disposed of within a period of four weeks from the date of receipt of a copy of this order. Pending disposal of the

Writ Petition, status quo as on today shall be maintained.

DEPUTY REGISTRAR

June 17, 2004
MRR

// TRUE COPY //

SECTION OFFICER

Copy to:

1. The Chairman, Head Office, Sri Visakha Grameena Bank
Srikakulam,
Srikakulam District.
2. Two C.D. Copies.

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[1] 2001 3 ALT (FB)